

THE RATING ACT

Date of commencement: 15th February, 1968.

Date of Assent: 22nd January, 1968.

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PART I
PRELIMINARY

An Act to enable local rates to be imposed and collected by local authorities.

Short title.

1. This Act may be cited as the Rating Act, 1967.

Application.

2. (1) This Act shall apply to the areas referred to in Part I of the Schedule.
(2) The Minister may, from time to time amend the Schedule by notice published in the Gazette and any such amendment shall take effect from the date of publication of such notice or such later date as the Minister in such notice may determine.

Interpretation.

3. In this Act, unless the context otherwise requires —
 “agricultural land” means land or improvements in respect of which there is a current certificate given under section 13;
 “area”, in relation to a local authority, means as the circumstances require —
 (a) the town board or town council area in accordance with the law establishing the town board or town council; or
 (b) the area of the local government organ in accordance with the law establishing such organ; or
 (c) the area of town or township within the district of the district commissioner;
 “financial year”, in relation to any local authority, means any period of twelve months which the Minister may, by notice published in the Gazette, appoint in respect of such local authority;
 “immovable property” does not include a street, but otherwise means land and any improvements thereon, as hereinafter defined;
 “improvements” means any building, structure or erection of an immovable nature for whatever purpose it is used including, in particular, but without affecting the generality of the foregoing, any tank or silo, any swimming bath and any tennis court, but excluding any —

- (a) plant or machinery,
- (b) tank or silo having a capacity of less than 3,000 cubic feet; (85 cubic metres)
- (c) embankment or terrace or any culvert or drain or any other structure used solely for the purpose of draining any land;
- (d) bridge, ramp or railway track;
- (e) electricity supply lines and transformers, public water supplies and sewerage plant or equipment;

"local authority" means —

- (a) a Town Board or Town Council established under the Urban Government Act, No. 8 of 1969; (which Act repealed the Town Management Proclamation No. 4 of 1964);
- (b) any other organ of local government duly established under any law; or,
- (c) in respect of any area not falling under paragraph (a) or (b), the district commissioner;

"magistrate" means a magistrate for the purposes of the Magistrate's Courts Act No. 66 of 1938.

"Minister" means the Minister for Local Administration;

"occupier" means a person in actual occupation of immovable property, without regard to the title under which he occupies;

"owner" in relation to immovable property means —

- (a) the person in whom the legal title to such property is vested;
- (b) where the person in whom the legal title to such property is vested, is insolvent or dead or of unsound mind, or in the case of a company, is being wound up, the person in whom the administration of such property is vested as trustee, executor, curator, administrator or liquidator as the case may be;
- (c) where such property has been leased for a period of fifty years or more, the lessee of such property;
- (d) where the person who is the owner of such property in terms of paragraph (a), (b), or (c), as the case may be, is absent, the agent or person receiving the rent of such property;
- (e) where such property is beneficially occupied under a fideicommissum, usufruct or other servitude, or right analogous thereto, the

"rateable property" means immovable property in respect of which the owner is not wholly exempted from the payment of rates in terms of section 7;

"rate" includes penalty, collection charge or costs allowed in legal proceedings payable in terms of this Act;

"street" means street, road, lane, avenue, by-road, passage, thoroughfare or other right of way and includes bridge, subway, pavement, footpath, sidewalk, drain, culvert or the like therein;

"time of valuation" means, in respect of —

- (a) a general valuation, the date of the passing of the resolution of the local authority causing the valuation to be made; and,
- (b) an interim valuation, the time of valuation applying to the immediately preceding general valuation;

"town" or "township" means a town or township, including a private township, established or recognized as such or deemed to be such under any law;

"the town clerk" means the chief executive officer of a local authority or the district commissioner where he is the local authority;

"the treasurer" means the officer appointed by the local authority to be responsible for managing the financial business of such authority;

"valuer" means a competent person or firm appointed by the Minister to carry out any valuation under this Act, and,

"valuation court" means a court appointed under section 17.

PART II

RATING OF IMMOVABLE PROPERTY

General rate.

4. (1) Subject to this Act, the local authority may, as often as may be deemed necessary in respect of each financial year, assess and levy a general rate upon all immovable property within the area of such local authority, if it is an area to which this Act applies.

(2) The rate assessed shall be subject to the approval of the Minister.

Rating of agricultural land and differential rates.

5. (1) The rate charged upon rateable values of agricultural land shall be fifty per centum of the general rate, or such other percentage as the local authority, with the approval of the Minister, may decide.

(2) If a local authority is unable or fails to or for any other reason does not, supply in any portion of its area to which this Act applies, any of the following services:—

- (a) constructed roads, or
- (b) a water supply, or
- (c) a supply of electricity, or
- (d) sewerage, or
- (e) night soil removal, or
- (f) domestic refuse removal,

then, notwithstanding this Act, or any other law, the Minister, after reference to such local authority, may by notice in the Gazette determine that, on and from a date and for a period specified therein, there shall be assessed and payable in respect of rateable property in any defined portion of such area only that percentage of the general rate made and levied by the local authority fixed in such notice:

Provided that an additional percentage of such general rate shall be added to the rate fixed by the Minister for any one of the services provided or made available, as the case may be, in the portion concerned, from a date and on a basis to be fixed and prescribed by the Minister in such notice.

(3) The Minister may at any time amend or repeal any notice issued under subsection (2).

Method of rating.

6. (1) Except as provided in subsection (2), each rate shall be made, levied and assessed partly on the valuation of the land without improvements and partly on the value of the improvements.

(2) The local authority may, subject to the approval of the Minister, determine that any rate shall be made, levied and assessed on the valuation of the land only or the improvements only, or on the total valuation of the property, and thereafter, until such local authority determines otherwise with the approval of the Minister, all rates shall be made, levied and assessed accordingly.

Exemptions from rates.

7. (1) Subject to subsections (2), (3) and (4), the following shall be exempt from the payment of rates, namely immovable property —

- (a) vested in the Government and which is occupied for public purposes, or which is land without any improvements thereon:

Provided that any land or buildings used or reserved for residential purposes or accommodation of staff shall not be so exempted; and,

- (b) used exclusively throughout the year for purposes of —
 - (i) public worship;

- (ii) a school, college or university, including any boarding establishment or recreation ground or the like provided for the accommodation, use or enjoyment of students or scholars attending such school, college or university;
- (iii) any *bona fide* charitable institution maintained by any company, society or other association of persons;
- (iv) a public library, museum or art gallery;
- (v) a hospital, clinic or health centre;
- (vi) a cemetery or crematorium;
- (vii) any public place defined in section 3; and
- (viii) any other purpose, approved by the Minister, after consultation with the local authority, as being for the public benefit.

(2) No exemption from rates shall be granted in respect of any immovable property by virtue of subsection (1)(b) —

- (a) if the use of such property has as one of its objects the private pecuniary profit of any individual, whether as a shareholder in a company or otherwise;
- (b) if any rent, other than a nominal rent, is paid to the owner, lessee or occupier of any such property; or
- (c) where such property is used for the residential accommodation of members of the staff or staff of any institution referred to therein.

(3) If, during the currency of any financial year, immovable property is used for any purpose other than a purpose hereby exempted, the local authority shall impose rates thereon, or on such portion thereof so used, at a rate proportionate to the period of such use, subject to a minimum charge of fifty cents for each separate occasion of use.

(4) Immoveable property, or any part thereof, which is exempt from rates under this section shall become rateable and rates shall be deemed to have been made and levied thereon from the date on which it ceases to comply with the conditions conferring exemption:

Provided that if immovable property which is vested in the Government is disposed of (whether the passing of ownership is suspended or not), such property shall become rateable from the date of its disposition as if it had been transferred on that date.

(5) Nothing hereinbefore contained shall be deemed to exempt any property from payment of water, rubbish removal, sewerage and sanitation fees or charges which may be payable under any other law.

Determination of exemption from rates.

8. (1) The local authority shall cause to be prepared and maintained an up-to-date list of all immovable property which is exempted from the payment of rates in terms of section 7.

(2) No rates shall be assessed or levied in respect of immovable property included in such list until it is removed therefrom, but, on such removal, rates shall be payable with retrospective effect as provided in section 7(4).

(3) An owner of immovable property, which he claims is exempted from the payment of rates by reason of section 7, shall be entitled to apply to the local authority for such property to be included in the list mentioned in subsection (1) —

- (a) within sixty days of the dispatch to him of a demand for the payment of rates upon such property; or,
- (b) if rateable property becomes exempt from the payment of rates during the course of a financial year, within sixty days of the date on which such owner claims such property became exempt;

and, if the application is granted, such exemption shall have retrospective effect from the commencement of the financial year concerned or the date on which the circumstances giving rise to exemption first applied, whichever is the later.

(4) For the purposes of determining whether or not immovable property is exempted from the payment of rates, the owner may be called upon to furnish all particulars which the local authority may require in order to reach a decision, and any person who —

- (a) refuses or fails to the best of his ability to answer any question put to him or to comply with any reasonable requirement of such local authority in this respect; or

(b) wilfully furnishes false particulars to such local authority;
shall be guilty of an offence.

(5) If immovable property which is exempted from the payment of rates forms part of a property shown in the valuation roll and there is a dispute as to the respective values of the exempted portion and rateable portion of such property, the matter shall be referred to a valuer who shall issue a certificate giving his valuation of each portion separately:

Provided that, if the owner or the local authority is aggrieved by the decision of such valuer, either may lodge an objection with the town clerk, and such objection shall be considered by the valuation court as though it were an objection lodged in accordance with section 15.

(6) This section shall not affect the right of the Minister, a ratepayer or duly appointed auditor to question the correctness in law of the inclusion of immovable property in the list of property exempted from the payment of rates or to test the matter in a competent court of law, or the right of an owner of immovable property to test, in a competent court of law, the refusal of a local authority to treat his property as exempted from rates.

PART III

VALUATION

General valuation.

9. (1) For the purpose of assessing the rates, the local authority shall from time to time, but not less than once in every five years, or such longer period as the Minister may approve, cause a valuation to be made of all immovable property within its area and cause a valuation

(2) The Minister shall appoint one or more valuers to carry out such valuation.

(3) For the purposes of this section, such valuation shall be deemed to be completed on the date the valuation roll is signed and certified by the president of the valuation court under section 19

Declaration of valuer. (Schedule).

10. (1) Every valuer shall, before entering upon the valuation entrusted to him, make a declaration before a commissioner of oaths in the terms set out in Part II of the Schedule and it shall be lodged with and preserved by the local authority and kept with the valuation roll after it has been prepared.

(2) Every valuer shall, on completion of the valuation entrusted to him, attach to the valuation a certificate, under his hand, in the terms set out in Part III of the Schedule.

Draft valuation roll.

11. Every valuer shall prepare such valuation, (hereinafter referred to as the draft valuation roll) in writing in a form approved by the Minister and in a manner which will show, under separate headings, to the best of his knowledge and opinion, in respect of each separate property —

- (a) the description of the land;
- (b) the area of the land;
- (c) the situation of the land;
- (d) the name of the owner;
- (e) the nature of the use of the land and improvements;
- (f) the value of the land without improvements;
- (g) the value of improvements;
- (h) the total improved value of the land;
- (i) a reference to any agricultural certificate granted in the terms of section 13;
and
- (j) such other matters as the Minister may direct to be shown.
(Amended A.11/1971.)

Basis of valuation.

12. (1) The basis of the valuation of land shall be deemed the ordinary price which a buyer would be willing to give and a seller would be willing to accept if the land to be valued were brought at the time of valuation to a voluntary sale.

(2) The value of improvements shall be the total value of the immovable property concerned less the value of the land comprising such property. (Amended A.11/1971.)

(3) If, owing to infrequency of sales or other reasons, the purchase price obtainable for land in any locality, or, in the case of improvements, the cost of erection or replacement, will not, in the opinion of the valuer, serve as a sufficient guide to enable him to arrive at a fair and equitable valuation of any property, whether land or improvements, the rental and productivity and the possibilities of any such property as an investment shall be considered in establishing the basis of, and finally determining the valuation of such property.

(4) In valuing any property under this section, the valuer shall not take into account any value accruing to the property by reason of the presence or proximity of precious stones, precious or base metals or minerals.

Agricultural certificate.

13. (1) If the valuer is satisfied that rateable property not being less than five acres (2,023 hectares) in extent, is being used *bona fide* and exclusively for agricultural purposes, he shall, subject to this section, certify under his hand that such property is agricultural land:

Provided that such certificate shall not be given if the property is being used for any agricultural purpose prohibited by a town-planning scheme prepared, or in course of preparation, under a law relating to town-planning.

(2) If the valuer is satisfied that property, in respect of which there is in force an agricultural certificate, is no longer being *bona fide* used exclusively for an agricultural purpose, he shall cancel such certificate, whereupon such property shall cease to be agricultural land.

(3) Any person, aggrieved by a decision of the valuer given under subsection (1) or (2), may lodge an objection with the town clerk, and such objection shall be considered by the valuation court as though it were an objection against a valuation lodged under section 15.

(4) The Minister may make regulations prescribing —

- (a) the purposes that shall be regarded as agricultural purposes;
- (b) the form of the agricultural certificate and information to be recorded thereon;
- (c) the records to be kept in connection with the grant and cancellation of agricultural certificates; and
- (d) any other matters, arising out of this section, which it is expedient to pre-

Power of entry and inspection.

14. (1) Every valuer provided with written authority signed by the Minister or his permanent secretary may, for the purpose of making a valuation under this Act, enter at all reasonable hours in the day-time into and upon any land or buildings within the area of the local authority and may also inspect and make extracts from all registers or other records or deeds or instruments, belonging to or in the custody or possession of any Government officer or any person, which contain particulars of any immovable property.

(2) A valuer may require the owner or any person in occupation or charge of any immovable property to furnish him with information upon all matters which may be necessary to enable him correctly to value such property, including the names of the owner and occupier thereof and any other necessary particulars.

(3) A person shall be guilty of an offence if he —

- (a) makes any statement to a valuer knowing it to be false;
- (b) refuses or fails, to the best of his ability, to answer any question put to him or comply with any reasonable requirement made by the valuer in exercise of his functions; or
- (c) wilfully obstructs the valuer in any way from exercising the powers conferred on him under this section.

(4) For the purpose of this section, "valuer" includes a person appointed in writing by the Minister to be an assistant to a valuer. (Amended A.11/1971.)

Returns to be made by owner or occupier.

14.bis (1) The valuer may serve a notice on the owner requiring him to render a return of such information as the valuer may deem necessary to enable the valuer to value the property.

(2) A person on whom a notice has been served under subsection (1) shall comply with it not later than twenty-one days after service of the notice on him.

(3) Any person who fails to comply with subsection (2) or who makes a false statement in a return made under subsection (1) shall be guilty of an offence.

(4) In any proceedings a statement in a return made under subsection (1) shall be deemed to be true unless the contrary is proved. (Added A.11/1971.)

Inspection of, and objections, to draft valuation roll.

15. If the draft valuation roll has been completed it shall be delivered to the local authority, which shall cause a notice to be published, in the Gazette and in at least one newspaper circulating in Swaziland —

- (a) stating that a copy of such draft valuation roll is open for public inspection at the office of such local authority, and that any person may, free of charge, inspect it and take copies or extracts therefrom during the hours specified in such notice;

- (b) stating that such local authority or the owner or occupier of any property included in such draft valuation roll, or their duly authorized representatives, may make an objection to any valuation, or in respect of any other error, omission or misdescription in such roll, in the case of —
 - (i) a local authority, in respect of any property; and,
 - (ii) an owner or occupier of property, in respect of the property;
- (c) appointing a date, which shall be at least twenty-one days after the date of first publication of such notice in such newspaper, on or before which any objection to such roll shall be lodged with the town clerk;
- (d) stating that an objector must lodge his notice of objection in the form prescribed and set out the grounds upon which his objection is based, and inviting attention to the fact that no person is entitled to urge any objection before such valuation court unless he first lodges his notice of objection, in the prescribed form, within the time advertised; and
- (e) appointing a date on which, and specifying the place at which, a valuation court will sit to consider and determine any objection duly lodged in accordance with this section:

Provided that such date shall be at least fourteen days after the date on which the time for the lodging of objections has expired.

Notification of valuation to owners.

16. (1) Not later than seven days after publication of the notice under section 15, the local authority shall cause to be served, on every person whose name appears on the draft valuation roll as owner of immovable property, the valuation of which has been altered or where there has been a new valuation in respect of such property, a notice incorporating as near as may be the terms of the first-mentioned notice and, in addition, informing him of the amount at which such property has been valued in the terms of section 11.
(Amended A.11/1971.)

(2) Non-receipt of such notice or any error therein shall not invalidate the valuation roll or the proceedings of the valuation court or affect the liability of an owner to the payment of rates.

Appointment of valuation court.

17. (1) The Minister shall appoint, for each local authority area in respect of each financial year, a valuation court consisting of a president and two other members.

(2) The president shall be a magistrate or legal practitioner within the meaning of the Legal Practitioner's Act, No. 15 of 1964, of not less than five years standing.

(3) One other member shall be appointed by the Minister, in his discretion, and the other member shall be nominated by the local authority.

(4) The Minister and the local authority shall each have the right to appoint one or more alternate members to a member appointed under subsection (3), one of whom may act in place of such member at any sitting of the valuation court from which such member is absent:

Provided that, where two or more persons are appointed alternates to any one member, the order of precedence in which they may so act shall be specified.

(5) The president and one other member shall constitute a quorum and all decisions of the valuation court shall be by vote of the majority of the members present:

Provided that, in the event of an equality of votes, the president shall have a second or casting vote.

(6) No person shall sit as a member of a valuation court hearing any matter in which he is directly interested or concerned as being primarily liable to pay the rates in question or part thereof, and if he does so he shall be guilty of an offence.

(7) The town clerk or some other person appointed by the Minister shall act as clerk to the valuation court, and the names of all members of such court and such clerk shall be shown in the front of the draft valuation roll.

(8) A valuation court may, for the purpose of hearing or completing the hearing of any objections duly lodged during that financial year, continue to be validly appointed after the end of the financial year for which it was appointed.

(9) The local authority shall pay the president, members and clerk of a valuation court, who are not officers of the government or local authority, such fees and allowances as may, from time to time, be prescribed by the Minister, who may prescribe different fees and allowances in respect of different valuation courts.

Hearing of objections.

13. (1) The valuation court shall meet as directed by the president to hear and determine all objections duly lodged or deemed to be lodged in accordance with section 15; and a sitting of such court may be adjourned from time to time until all objections have been heard and determined.

(2) The clerk to the valuation court shall, in the prescribed form, cause all interested parties to any objection to be summoned to attend such court.

(3) The valuation court shall be entitled to make such alterations or amendments in the draft valuation roll either by way of reduction, increase, addition or omission as may seem expedient to it after considering any objections duly made:

Provided that no alteration or amendment by way of increase or addition to such draft roll shall be made unless a notice has been served at least seven days prior to the sitting of the valuation court at which it is intended to consider such proposed increase or addition on the owner or person appearing to be directly affected thereby informing him of such intention and advising him that he or his representative may forward any objection to such increase or addition in writing to the clerk of such court before such date, or present such objection for consideration at such sitting, and such valuation court shall duly hear and consider all such objections.

(4) The valuer, by whom any valuations under consideration are made, shall attend the sitting of the valuation court at which they are considered and answer, on oath or affirmation, all questions which may be put to him by or through such court in regard thereto:

Provided that the non-attendance of the valuer shall not invalidate the valuations made by him, or the proceedings of the valuation court. (Added A.11/1971)

(5) At every sitting of such court, the local authority and any person who has lodged an objection to the draft valuation roll, and any person the valuation of whose property is objected to or proposed to be increased, or whose property it is proposed to add to the draft valuation roll, may appear either in person or by an authorized representative.

(6) The court may take the evidence of witnesses on oath or affirmation, and call for the production of all such papers or documents as it may deem necessary.

(7) Any person who, after being duly sworn or affirmed, gives false evidence before the valuation court knowing such evidence to be false or not knowing it to be true, shall be guilty of an offence and liable, on conviction, to the penalties which may be imposed for perjury.

(8) The court shall keep a record of its proceedings, a note of the valuation objection, and the finding in regard to each objection, and shall notify the owner of the property concerned of such finding, and shall cause a note to be taken of any evidence given before it.

Certification of valuation roll. (Schedule).

19. (1) If there are objections to a draft valuation roll, when the valuation court has completed its examination of such objections and has caused such alterations and amendments to be made therein as it deems necessary, as a result of considering such objections, the president and members shall sign and certify the same in the form set out in Part IV of the Schedule.

(2) Upon the certification provided for in subsection (1), the draft valuation roll shall become the valuation roll and, on coming into operation under section 21 shall supersede any previous valuation roll and be *prima facie* evidence of the liability of every person named therein for the payment of rates in respect of the rateable property mentioned therein on the basis of the value of such property.

Minor errors in valuation roll.

20. (1) No valuation contained in any valuation roll framed under this Act, and no rate based on such valuation shall be rendered void or be affected by reason of any mistake or variance in the description of any property or in the name of its owner; and no valuation roll made up and certified shall be challenged or set aside by reason of any formal defect.

(2) The local authority may alter the valuation roll in force and correct any —

- (a) clerical error not affecting any valuation;
- (b) error as to, or to record any change in the name of, an owner; and
- (c) error in the description or nature of use of any immovable property.

(Amended A. 11/1971)

Date of operation of valuation roll.

21. (1) The valuation roll shall come into operation with effect from the commencement of the financial year designated by the Minister by notice published in the Gazette.

(2) Notwithstanding subsection (1), the Minister may, at the request of the local authority, appoint some other date on which the valuation roll shall come into operation.

Purchase and inspection of valuation roll.

22. (1) The valuation roll shall be kept at the office of the local authority which shall cause copies thereof to be printed or typed and to be made available for sale to the public at such price as, in its opinion is reasonable.

(2) On payment of the prescribed fee any person may inspect the valuation roll of the local authority during normal office hours and make extracts therefrom.

Interim valuations.

23. (1) Subject to section 7, a local authority may, either on its own initiative or at the request of any owner of rateable property, at any time after the valuation roll has come into operation under section 21 cause —

- (a) any immovable property which has been omitted from the valuation roll to be valued, and levy and collect rates in respect thereof as if it had been correctly included;
- (b) any immovable property which has been added to a local authority area by reason of the alteration of the boundaries thereof to be valued, and levy and collect rates in respect thereof from the date it became part of such local authority area;
- (c) any new improvements which have been erected or partially completed and partially occupied to be valued, and levy and collect rates in respect thereof from the date of the erection or partial completion and partial occupation;
- (d) the value of any improvements which have been demolished wholly or in part to be revised as from the date of the demolition or partial demolition and levy and collect rates in respect thereof, accordingly;
- (e) a fresh valuation to be made of any immovable property which has materially increased or decreased in value for any reason and levy and collect rates accordingly; and
- (f) a fresh valuation to be made of any immovable property which is subdivided or in respect of which a declaration has been made under section 15 of the Private Townships Act, No. 17 of 1961, and levy and collect rates in respect of each subdivision or lot, including any remainder, accordingly:

Provided that the subdivision shall be deemed to have taken place on the date on which the Surveyor-General approves the plans and diagrams relating to such subdivision, or, if his approval thereto is given subject to conditions on the date on which all such conditions are satisfied. (Amended A.11/1971.)

(2) Any valuation or revaluation made under the authority of subsection (1) shall be termed an interim valuation, and all such interim valuations shall be notified to the local authority and included by the value in a supplementary valuation roll as provided in section 24 and shall be regarded as part of the procedure for making such supplementary roll under such section.

(3) The local authority shall cause a notice containing particulars of the valuation to be served on every person who becomes liable to pay new or increased rates, or whose rates may be decreased, by reason of an interim valuation, and shall mention the right of objection on publication of the supplementary valuation roll under section 24(2) and specify the date by which such objection shall be lodged.

(4) If the rates, in respect of any property, for the relevant financial year have already been paid on the basis of the value shown in the valuation roll, the local authority may collect additional rates which may become due by reason of an increase in the value of such property, or shall refund to the owner any difference in the case of a decrease in the value thereof, regard being had, in all cases, to the date upon which such increase or decrease in value came into existence.

Supplementary valuation roll.

24. (1) A supplementary valuation roll shall be prepared, for each of the financial years following the year of general valuation, to include any alterations and additions permitted under section 23(1):

Provided that the Minister may direct that supplementary valuation rolls be prepared for such lesser periods as he may determine instead of for each financial year.

(2) With regard to the making of a supplementary valuation roll, the same forms and procedure shall be observed, and the same proceedings taken as nearly as can be, *mutatis mutandis*, with those relating to the making of the draft valuation roll including the right of objection:

Provided that where notice has been served on a person in respect of an interim valuation under section 23(3) notice need not be served under section 16.

(3) Where an interim valuation affects immovable property included in the valuation roll, the valuer shall show the revised particulars in respect of such property in the supplementary valuation roll and the valuation court shall cause the existing entry in the valuation roll to be deleted with effect from the date on which such interim valuation came into force as provided in section 23(1).

(4) Upon certification under section 19, the supplementary valuation roll shall become in all respects part of the valuation roll in force in the area of the local authority, and any reference to such valuation roll shall be deemed to include any such supplementary roll.

Right of appeal.

25. (1) Any person, including the local authority, who feels himself aggrieved by a decision of a valuation court, may appeal to the High Court on a question of law as to the principle upon which any valuation has been or should be made in the case of any objection

(2) Notice of appeal shall be delivered in terms of the rules of the High Court within one month of the date on which the decision appealed against was given, and shall set out the legal point in dispute in the form of a special case which may be argued before and determined by the High Court, which may make such order as to costs as such court thinks fit.

(3) The valuation court shall amend the valuation roll in accordance with the decision or direction of the High Court, and such amendment shall form part of the valuation roll with effect from and including the date such valuation roll came into operation.

PART IV

ASSESSMENT AND COLLECTION OF RATES

Collector of rates.

26. The treasurer shall be the collector of rates and, subject to section 32, may, under that title, sue for and recover all rates which are due and payable to the local authority.

Notification of rates and date of payment.

27. (1) If the Minister has given his approval under section 4, the local authority shall cause to be published in the Gazette and in at least one newspaper circulating in Swaziland and to be posted at the offices of the local authority, a notice —

- (a) setting forth the amount of the rate made and levied by it;
- (b) appointing a date on which such rate becomes due and payable, which shall be not less than thirty days after publication of such notice; and
- (c) stating that a penalty will become payable in respect of any rate remaining unpaid after the expiry of two months from the date appointed under paragraph (b).

(2) Notwithstanding this Act, the local authority may agree with a ratepayer for the payment of rates by monthly instalments during the financial year in respect of which the rates are payable and, while the terms of the agreement are being observed, sections 30 and 32(1) shall not apply.

(3) In cases of default occurring after the return referred to in section 32(1) has been rendered, supplementary returns of defaulters shall be framed and dealt with, in the terms of that subsection, from time to time if necessary.

(4) The date on which such rate becomes due and payable shall not be affected by reason of any outstanding objection or appeal made under section 15, 23 or 25 as the case may be:

Provided that if the value of any property is increased or decreased in determining such objection or appeal, the local authority may collect additional rates which may become due by reason of an increase, or refund to the owner any difference in the case of a decrease in the value of the property concerned.

Assessment of rates.

28. All rates made and levied by the local authority shall be assessed on the valuation as shown in the valuation roll in operation for the financial year in respect of which such rates are due:

Provided that, if an interim valuation is made under section 23 such rates shall be assessed on such valuation proportionate to the part of the year in respect of which the property is rateable; and,

Provided further that, where the total rate payable in respect of any one property does not exceed one rand, a minimum charge of one rand may be imposed and collected.

Liability for rates.

29. The rates shall be a tax upon the property the subject thereof and shall be paid at the office of the local authority by the person who is the owner of such property at the time such rates become due.

Penalty for late payment of rates.

30. A penalty calculated at the rate of twelve per centum per annum for each month or part of a month during which the default continues shall be added in respect of any rate remaining unpaid after the expiry of two months from the date on which such rate became due and payable:

Provided that, if an explanation for such default is given to the satisfaction of the collector of rates, he may agree to waive such penalty either in whole or in part.

Recovery of rates.

31. (1) As soon as reasonably possible after the publication of the notice referred to in section 27, the collector of rates shall issue to the owner of every rateable property included in the valuation roll a notice —

- (a) stating the amount of the rates owing in respect thereof, and the date on which they become due and payable;
- (b) setting out the description of such property and the value thereof as shown in the valuation roll; and
- (c) drawing attention to the provisions of section 30.

(2) The collector of rates shall issue a notice, in terms of subsection (1), to every person who becomes liable to pay new or increased rates by reason of sections 7(4) or 23(1).

(3) If the owner of any property fails to pay the rate or any part thereof, owing in respect of the property, on or before the expiry of two months from the date on which such rate becomes due, a final demand in writing shall be made by the collector of rates and served on the owner requiring him to pay the amount stated therein within fourteen days

(4) If the owner fails to comply with the final demand made under subsection (2), the collector of rates may serve upon any tenant for the time being of the property a demand for the payment to him, the collector, of all rents which may accrue to such owner in respect of such property, to the amount of the unpaid rates and any penalty in respect thereof, together with a charge, at the rate of ten per centum of the total amount outstanding at the date of such demand, to cover the cost of collection; and, for the purpose of enforcing such demand, the collector of rates may exercise all remedies which may be exercised by a landlord against a tenant for recovery of rent in arrear, and the payment of so much rent as may be required to satisfy the amount of such unpaid rates shall be deemed to be a payment of rent by the tenant to his landlord.

Legal proceedings for recovery of rates.

32. (1) As soon as is reasonably possible after the expiry of two months from the date on which the rate became due and payable, the collector of rates shall render a return to the local authority setting forth the names of all owners of property in default and the amounts of rates owing by each; and thereupon such local authority may cause legal proceedings to be instituted for the recovery of the amounts of the rates owing and any penalties accruing thereon, together with a charge, at the rate of ten per centum of the amount owing at the commencement of proceedings, to cover the cost of collection in addition to costs allowed in such proceedings:

Provided that such proceedings shall be instituted within one year of the date on which such rate became due and payable, unless the Minister, at the request of the local authority, authorizes it to defer the institution of the proceedings generally or in particular cases for such period as he may determine.

(2) The proceedings for the recovery of rates shall comply with the following —

- (a) the local authority shall file with the clerk of the court a statement certified by the treasurer, on oath, setting forth the amount of rates payable by the owner;
- (b) a copy of such statement shall be posted by the treasurer to the owner on the same day as the statement is filed with the clerk of such court;
- (c) the statement referred to in paragraphs (a) and (b) shall contain a copy of the provisions of this subsection;
- (d) upon receipt of such statement, the clerk of such court shall enter judgment in the records of such court in favour of the local authority against the owner.

(3) If any rate, or part of any rate, remains unpaid after the end of the financial year for which it was levied, and for the satisfaction of which no sufficient execution can be made, the following provisions shall apply —

- (a) after the expiry of such financial year, the local authority may cause to be inserted, in the Gazette and in at least one newspaper circulating in Swaziland, particulars of every such property and of the rates payable together with a notice requiring the owner, by name, if known, or otherwise whom it may concern, and the mortgagee or mortgagees, if any, to make payment of

such amount, and any accruing penalties thereon, within six months from the date of publication of such notice in the Gazette, and stating that, in default thereof, application after the expiry of such period will be made to court to order such property to be sold by public auction (subject to such further notice, if any, as the court deems necessary) in satisfaction of the rates which will be due in respect of such property up to and at the time of such application, and of all rates that may accrue between the date of such application and such sale.

- (b) such notice shall be given by the local authority in no case later than three years from the close of the financial year for which such rate was levied; and if, upon expiry of such notice, the default still continues, such local authority shall make application to the court and prosecute the proceedings to their conclusion without further delay; and
- (c) if, after the expiry of such notice, such rates remain unpaid, the court may, on the application of such local authority and upon certification of the rates payable in the manner provided in subsection (2) and that the conditions in this section prescribed have been fulfilled, summarily order such property, or so much of it as is sufficient to satisfy the rates payable and accruing, to be sold by public auction, and the proceeds paid into court, and direct payment out of those proceeds, to the local authority, of the rates payable, together with the costs of such application and all expenses of sale, in preference to any mortgage, security or claim whatsoever, if any, affecting the property so sold:

Provided that in all other respects such sale shall be deemed to be a sale of immovable property in execution of a judgment of such a court.

(4) For the purposes of this section, "court" means a magistrates' court of the first class and such court shall have jurisdiction notwithstanding that the amount claimed by the local authority or the value of the property involved exceeds the limits of its jurisdiction.

(5) For the purposes of the law relating to insolvency, rates are a tax on property.

Certificate for transfer of immovable property.

33. (1) No transfer of any immovable property in a local authority area shall be registered by the registrar of deeds until there has been exhibited to him a certificate, signed by the town clerk or treasurer, that all rates payable in respect thereof have been paid, and indicating therein the period during which such certificate shall be available, such period being based upon a date not later than that upon which further rates in respect of such property may become due and payable:

Provided that this subsection shall not apply in the case of any immovable property sold under section 32(3).

(2) The certificate referred to in subsection (1) shall also cover any amount owing to the local authority by the owner by way of any fees or charges which may be payable, under any other law, in respect of the property.

(3) Each financial year, the town clerk shall forward to the registrar of deeds a copy of every notice published under section 27(1).

(4) A fee, if any, prescribed by the Minister, shall be paid to the local authority for each certificate issued in terms of subsection (1),

Rateable property becoming exempt from rates.

34. (1) If, at any time during the financial year, immovable property, which is rateable property at the commencement of such year, becomes exempt from the payment of rates, the local authority is entitled to collect an amount in respect of rates bearing the same proportion to the total rates which would have been payable, had the property remained rateable for the whole financial year, as the portion of the financial year, which expired before such property became exempt, bears to the whole financial year.

(2) If the property becomes exempt during the period between the commencement of the financial year and the date on which the rates would otherwise be due and payable, the collector of rates shall fix an amount calculated, in terms of subsection (1), in respect of the rates due and payable for that portion of the financial year in which the property is rateable and shall give notice thereof to the owner of such property in terms of section 31(1).

(3) If the property becomes exempt after the date on which the rates become due and payable, the local authority shall make a refund to any person who has paid, or discharge from liability any person who is liable for, any rates in respect of such property, to an amount bearing the same proportion to the total rates, in respect of such property, as the portion of the financial year in which it is exempt bears to the whole financial year.

Remission of rates.

35. A local authority shall not remit a rate due under this Act except where any immovable property has been added to a local authority area by reason of the alteration of its boundaries, whereupon such local authority may, with the consent of the Minister, remit an amount not exceeding fifty per centum of the rate due in respect of the financial year during which such boundary alteration took place and the next two succeeding financial years.

PART V

MISCELLANEOUS

Returns of transfers of property.

36. (1) As soon as reasonably possible after the end of every month or quarter, whichever he may find more convenient, the registrar of deeds shall transmit, to the town clerk, a return in writing setting forth the name of every person who during the previous month or quarter, as the case may be, transferred any immovable property situated in the area of the local authority, together with a short description of such property, the name of the transferee and the amount of the purchase price paid or other consideration given or the value of such property, as the case may be.

(2) The returns made under subsection (1) shall, upon payment of a prescribed fee, be made available by the town clerk during office hours for inspection by any owner who desires to inspect them in connection with any objection or appeal which he may contemplate against the valuation of any immovable property owned by him within the area of the local authority.

Serving of notices and documents.

37. (1) Any notices or other documents required to be served on any person under this Act may be served in any of the following ways —

- (a) on such person personally;
- (b) by delivering such notice or document at his place of business or his place of residence;
- (c) by posting a prepaid letter, containing such notice or document and addressed to the person on whom such notice or document is to be served, to his last known place of residence or his last known place of business, or to his post office box number; or,
- (d) if his address in Swaziland is unknown, by fixing such notice or document in a conspicuous place on the immovable property to which it relates.

(2) Service in terms of subsection (1)(c) shall be deemed —

- (a) to be effected by properly addressing, prepaying and posting a letter containing such notice or document, unless it is proved that such letter was not delivered at the place to which it was addressed; and,
- (b) unless the contrary is proved, to have been effected at the time when such letter would be delivered in the ordinary course of post.

(3) The owner of any immovable property shown in the valuation roll shall notify the local authority of his postal address within two weeks of acquiring such property and, thereafter, within two weeks of each change of his postal address.

(4) An owner who fails to comply with subsection (3) shall be guilty of an offence.

Evidence.

38. In legal proceedings for the recovery of a rate imposed by this Act, any book or other document purporting to be —

- (a) a valuation roll or rate book of the local authority;
- (b) a duly authenticated copy of or extract from such roll or book; or
- (c) a copy of any newspaper containing a relevant notice;

as well as any entry therein, shall on its mere production, be *prima facie* evidence of the making, levying and assessment of and the liability for such rate and the amount due without any evidence that any notice required by this Act or other requirements of this Act have been given, served or complied with.

Defaulting local authorities.

39. If a local authority fails to carry out, within the time prescribed by this Act, any duty imposed upon it by or under this Act, or, if no time is prescribed, within a period determined by the Minister, the Minister may, after due notice to such local authority, carry out the duty in question at the expense of the local authority or cause it to be so carried out.

Recovery of cost of valuations.

40. The local authority shall pay the valuer for a valuation under this Act such remuneration, and such reimbursement for any disbursements, costs, fees and expenses incurred by him in connection with such valuation as the Minister may determine.

Regulations and forms.

41. (1) The Minister may make regulations concerning —

- (a) anything which is to be, or may be, prescribed under this Act;
- (b) the manner in which any notices or orders shall be published;
- (c) generally the procedure to be adopted in respect of objections or appeals, including the procedure to be adopted at sittings of the valuation court; and,
- (d) generally, all matters which the Minister considers it necessary or expedient to prescribe for the better carrying out of this Act.

(2) Any regulations made under subsection (1) may provide for the punishment, of any person guilty of an offence under the regulations by means of a fine not exceeding two hundred rand or, in default of payment thereof, imprisonment for a period not exceeding six months.

(3) Such regulations shall specify the contraventions thereof which are offences and the punishment which may be imposed for such offences.

(4) Different punishments may be imposed, within the limits prescribed in this section, for different offences, and, in the case of a continuing offence, such regulations may impose an additional fine not exceeding two rand for every day during which such offence continues.

Penalties for offences.

42. A person who is guilty of an offence under section 3(4), 14(3), 14bis, or 17(6) shall be liable, on conviction, to a fine not exceeding two hundred rand or, in default of payment thereof, imprisonment for a period not exceeding six months. (Amended A.11/1971.)

Termination of quitrent.

43. If, under this Act, a rate is levied on immovable property, any quitrent otherwise lawfully payable in respect of such property shall cease to be payable.

SCHEDULE

PART I

(Section 2.)

Date.

Area

13th day of February, 1968.

The area of the Manzini
Town Council.

18th day of February, 1968.

The area of the Mbabane
Town Council.

PART II

(Section 10(i))

DECLARATION OF VALUER

I, (full names) _____, do solemnly and sincerely declare that I will to the best of my skill and knowledge, and without favour and prejudice, truly and impartially appraise and value all such immovable property as I am required to value for the purposes of assessment, and that I will conscientiously value the same at and for the full and fair value thereof according to the intent and requirement of the law. I make this solemn declaration conscientiously intending to fulfil the same.

(Valuer)

Declared at (place) _____ this _____

day of _____ 19 _____

Before me:

(Commissioner of Oaths)

PART III
(Section 10(2))

CERTIFICATE OF VALUER

In accordance with section 10(2) of the Rating Act, No. 24 of 1967, I hereby certify that the figures entered in the draft valuation roll above have been truly and impartially appraised, valued and checked by me for all immovable property within the area of (specify) in accordance with such Act.

And that for the purpose of the draft valuation roll, the date taken as the "time of valuation" in accordance with section 3 of such Act was the day of 19.....

This..... day of 19.....

.....
(Valuer)

PART III
(Section 19(1))

CERTIFICATE OF VALUATION COURT

In accordance with section 19(1) of the Rating Act No. 24 of 1967, we certify that the valuation court set up to consider objections, if any, to the draft valuation roll/supplementary valuation roll No. *..... for..... has duly sat and examined all objections, notifying their decisions to the interested parties concerned, and instructing that the necessary alterations and amendments should be made to the draft valuation roll/supplementary valuation roll.* Now, having satisfied ourselves that these alterations have been carried out, we certify that the draft valuation roll/supplementary valuation roll* shall become (part of) *the valuation roll for and shall come into force as provided in such Act.

Dated this.....day of..... 19.....

.....President of Valuation Court.

.....
.....
..... } Members of Valuation Court

*Delete whichever is not applicable.

The Government Printer, Mbabane.